

**ISSUING A FALSE FINANCIAL STATEMENT**  
**(Makes or utters written instrument)**  
**Penal Law § 175.45(1)**  
**(Committed on or after Sept. 1, 1967)**

The (specify) count is Issuing a False Financial Statement.

Under our law, a person is guilty of Issuing a False Financial Statement when, with intent to defraud, he or she knowingly makes or utters a written instrument which purports to describe the financial condition or ability to pay of some person and which is inaccurate in some material respect.

The following terms used in that definition have a special meaning:<sup>1</sup>

WRITTEN INSTRUMENT means any instrument or article, including computer data or a computer program,<sup>2</sup> containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence, of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.<sup>3</sup>

INTENT means conscious objective or purpose. Thus, a person acts with intent to defraud when that person's conscious objective or purpose is to do so.<sup>4</sup>

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<sup>1</sup> The term "utter" is not defined by statute or in case law. Black's Law Dictionary (7<sup>th</sup> ed 1999) defines the term as follows:

"1. To say, express, or publish.... 2. To put or send (a document) into circulation; esp., to circulate (a forged note) as if genuine...." (Examples omitted).

<sup>2</sup> If in issue, definitions of "computer program" and "computer data" are set forth in Penal Law 156.00(2) and (3), respectively.

<sup>3</sup> Penal Law §175.00(3).

<sup>4</sup>See Penal Law §15.05(1).

A person KNOWINGLY makes or utters a written instrument when that person is aware that he or she has made or uttered a written instrument.<sup>5</sup>

[PERSON means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or governmental instrumentality.<sup>6</sup>]

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following three elements:

1. That on or about (date), in the county of (county), the defendant (defendant's name), made or uttered a written instrument which purported to describe the financial condition or ability to pay of some person and which was inaccurate in some material respect;
2. That the defendant did so knowingly;
3. That the defendant did so with intent to defraud.

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.

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<sup>5</sup> See Penal Law §15.05(2).

<sup>6</sup> Penal Law §10.00(7).